



**Statement of Robert Nielsen  
on behalf of the  
National Association of Home Builders**

**Before the Subcommittee on Housing and Community Opportunity**

**United States House of Representatives  
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## **Critical Housing Needs**

The national homeownership rate, the percentage of households who own their own home, reached an all-time peak of 67.1 percent in the first quarter of 2000, and an all-time annual peak of 66.8 percent in 1999. Certainly a robust economy has been a contributing factor. In fact, the market-driven housing market is as healthy as it has ever been. New home sales hit a new record in March of this year and existing home sales were up as well. Mortgage interest rates remain very competitive and many home owners are finding this a good time to sell their existing home and buy a new or another existing home.

However, there are many, many households left behind who cannot afford even the barest of housing. A recent study from researchers at the University of North Carolina commissioned by the Center for Housing Policy found that 13.7 million Americans pay more than half their incomes for housing or still live in substandard housing. Census Bureau data show that the homeownership rate among young households is still below the peak that it reached in the late 1970's and that the homeownership rate for minorities is still 20 percentage points below the national average. HUD's latest update on the worst case needs reaffirms that millions of renter families cannot find affordable rental housing. We know from our builder members across the country that some new home buyers must commute long distances to work because they cannot find affordable housing in the communities where they work. In other words, there is a critical shortage of affordable housing that affects many segments of our society. This testimony reflects NAHB's recommendations on numerous programs or proposals for addressing our housing needs.

## **FHA Multifamily Mortgage Limits**

The FHA multifamily mortgage insurance programs support new construction and substantial rehabilitation of apartments and are a cornerstone of efforts to meet the critical needs for affordable rental housing. The existing statutory mortgage limits for these programs are too low, preventing usage of the program in a number of major markets.

There is a dramatic shortage of rental housing affordable to moderate-income working families in many areas across the country. A report published by the National Housing Conference's Center for Housing Policy noted that more than 730,000 working families with one or more blue-collar workers spend more than half their incomes for housing, as do more than 550,000 service workers and a similar number of retail sales workers.

One factor contributing to the shortage of affordable housing, especially in high-cost areas, is the fact that the FHA multifamily mortgage limits have not been increased since 1992. Construction, land and other costs have increased dramatically during that period. The Annual Construction Cost Index, published by the Census Bureau, increased over 23 percent. In addition, preliminary results from a recent survey conducted by NAHB's Economics Department show that land costs in 10 metropolitan areas have increased by an average total of 25 percent over the past eight years.

These rising construction and other costs have resulted in a shortage of moderate cost or affordable rental units. Rent increases now exceed inflation in all regions of the country, and new affordable units are increasingly rare. Because of current dollar limits on loans, FHA insurance cannot be used to help finance construction in a number of high-cost urban areas. Statistics published by FHA show that in high-cost areas, such as New York and Philadelphia, only a few multifamily loans providing new or substantially rehabilitated affordable rental units have been insured in the last six years.

NAHB has proposed that the current statutory mortgage limits be increased 25 percent, which is consistent with reported increases in construction and land costs. We applaud Housing Subcommittee chair and ranking member Marge Roukema (R-NJ) and Barney Frank (D-MA) in introducing legislation (H.R. 1629) that would provide such an increase. NAHB feels it is also important that the limits be indexed based on increases in the Annual Construction Cost Index so that the programs can continue to meet demand without additional interruptions. Increasing the dollar limits for multifamily loans that can be insured by FHA will foster the development of affordable housing, especially in high-cost center city areas where it is needed most.

### **Credit Subsidy Appropriations for FHA Multifamily Mortgage Insurance Programs**

A more immediate problem blocking the use of FHA multifamily mortgage insurance in meeting affordable housing needs is inadequate funding in the federal budget. The Department of Housing and Urban Development must receive budget appropriations, in the form of credit subsidies, to operate the FHA's multifamily mortgage insurance programs. Such appropriations are required by the Federal Credit Reform Act, which applies to all federal direct loan and guarantee programs. The purpose is to recognize the potential cost of these programs in the federal budget.

For each program, the required credit subsidy is the dollar amount of losses that are expected over the life of the loans that are made or guaranteed in the budget year. The Office of Management and Budget establishes subsidy rates for each federal loan and guarantee program, based on an evaluation of the historical performance of those programs. The subsidy rates determine the amount of money that must be appropriated for any given level of program activity. (Programs that produce income rather than losses are assigned, what is called, a negative subsidy rate. Higher activity levels in these programs, which include the FHA single family mortgage insurance program, increase federal budget revenues.)

Each of the different FHA multifamily mortgage insurance programs has been assigned an individual credit subsidy rate. Based on projected program activity in each of these programs, it is estimated that FHA will require about \$255 million in credit subsidies to operate the multifamily mortgage insurance programs in FY 2001. Only \$101 million was appropriated, however, and that amount was exhausted before the end of April 2001. Such a shortfall means the loss of production of 50,000 units of affordable rental housing. In addition, the President's FY2002 budget proposal for HUD seeks no credit subsidy funding for multifamily mortgage

insurance. The budget instead proposed to increase the mortgage insurance premiums for these programs, which would eliminate the need for credit subsidy but would undercut the ability of the programs to provide affordable rental housing.

NAHB is seeking the enactment of a supplementary appropriation of \$155 million (including utilization by HUD of \$40 million of already-appropriated conditional credit subsidy funds) of credit subsidy for FHA multifamily mortgage insurance programs. NAHB is also seeking inclusion in the FY2002 budget of credit subsidy funds sufficient to meet the demand for FHA multifamily mortgage insurance in that year.

Over the longer term, NAHB joins many other housing and real estate organizations in supporting H.R. 1481, "The FHA Shutdown Prevention Act" introduced by Rep. John LaFalce (D-NY). H.R. 1481 would allow the negative subsidy (the profits made by programs within the General and Special Risk Insurance account) to be used in the event of a future shortfall in credit subsidy. NAHB urges members to cosponsor and support movement of this legislation.

### **New Multifamily Housing Production Initiative**

There is a need for a new multifamily housing production program that would meet the affordable rental housing needs of households with incomes between 60 percent and 100 percent of median income, America's "working poor," achieving an annual production goal of between 60,000 and 70,000 multifamily units.

The unprecedented economic expansion that our country has enjoyed for the better part of this decade has done little to solve America's affordable housing crisis. In fact, an estimated three million moderate-income working families continue to pay more than half their incomes for housing or live in severely deteriorated housing units.

As mentioned earlier, a recent study by the National Housing Conference's Center for Housing Policy shows that a significant number of American renter families spend more than half their total incomes on housing and/or live in severely inadequate units. The report went on to say that vital municipal workers – such as teachers and police officers – are also increasingly vulnerable. More than 220,000 teachers, police, and public safety officers across the country currently spend more than half their income for housing, and the problem is growing worse. In short, the study says that having a job does not guarantee a family will have a decent place to live at an affordable cost.

Federal housing policy for the past 20 years has been targeted almost exclusively to the needs of American families who make up our lowest income populations. While these families continue to need assistance, it is clearly time to recognize that public policy focused exclusively on the lowest-income Americans does not begin to address the scope of the problem. NAHB estimates that at least 60,000 to 70,000 new multifamily units annually are needed for America to begin to meet the housing needs of working families.

Early last year, NAHB formed a working group comprised of leading multifamily builders and lenders from across the country to develop the basic tenets of a new multifamily housing production program. This new production initiative would reaffirm the goal established by Congress in the 1949 Housing Act to “provide a decent home and suitable living environment for every American family.”

The new program would be targeted to households with incomes between 60 and 100 percent of area median income (115 percent in high cost areas) who are not currently served by federal or other publicly supported housing programs. Mixed-income projects would be encouraged and set-asides of funds for the production of housing for the elderly (some with service components), small projects, and rural housing development opportunities should be considered. Lower or very-low income residents and housing could be supported through increased funding for vouchers, tax credit increases, HOME or Community Development Block Grant funds.

NAHB recommends that the new housing production program provide a very low (1 percent) fixed interest rate. Interest rate risk was identified as the most pressing issue facing developers. An interest rate reduction and stabilization program would eliminate this risk and provide a solid project base. The Section 236 program could be used as the basis for the design of this program, but a new initiative should incorporate greater returns, particularly for small projects; greater flexibility for commercial space; and, vouchers for elderly and other special need populations. To assist in filling any financing gaps, the new program should be compatible with existing housing and community development programs such as CDBG, HOME, FHA Mortgage Insurance, and the Low Income Housing Tax Credit program. Very low-income residents would be limited to no more than 15-25 percent of an entire development to further promote income mixing and make these developments more acceptable to local communities and neighborhoods.

While the exact flow of funds in a new program requires discussion among the affected parties, funds could be allocated on a per capita basis. This could be coupled with some minimum “bonus” award to those who reduce barriers and regulatory burdens related to affordable housing production as well as to those that provide state or local contributions either monetary or in-kind.

### **Housing Impact Statement**

NAHB strongly supports removing regulatory barriers that affect housing affordability. Home building is a highly regulated activity. Perhaps in no other industry must the producer obtain a permit or undergo inspection for each individual unit of the entire production. For example, home builders must comply with site-development standards, while applying for building permits and undergoing building code inspections. The effect of regulation on the affordability of housing is undoubtedly negative. Layers of excessive and unnecessary regulation imposed by all levels of government, - federal, state, and local- can add between 20

percent and 35 percent to the cost of a home, which translates into thousands of dollars, making it difficult, or even impossible for families to own their home or find affordable rental housing.

NAHB is working with Congressman Mark Green (R-WI) towards a legislative proposal, which would require certain relevant agencies to designate a staff position to monitor the rulemaking processes to determine whether a particular rule would have a detrimental impact on housing affordability. We commend Rep. Green for his leadership on this issue and want to offer our assistance in any way we may be helpful.

### **Low-Income Housing Tax Credit “Eligible Basis” Clarification**

The low-income housing tax credit has provided a key part of the financing for nearly all the affordable rental housing built in the last decade. The credit, in effect, provides equity financing which allows for lower mortgage amounts, reduced debt service and, therefore, more affordable rents for tenants at or below 60% of area median income. Each state receives an allocation of tax credits in an amount based upon population. Developers compete for credits to build properties based upon a state designed Qualified Allocation Plan. Each state agency evaluates the proposed costs associated with each property to assure that the amount of credit allocated to a property is not more than necessary to finance the project. The amount of credits an agency allocates is based on a percentage of the property’s “eligible basis.” Eligible basis is, in turn, based upon certain of a property’s development costs.

We understand that the House Financial Services Committee does not have jurisdiction over tax issues, but we wanted to raise an issue involving the low-income housing tax credit (LIHTC) with the members of the Housing Subcommittee. The Internal Revenue Service (IRS) has made public five Technical Advice Memoranda (“TAMs”) which have been applied industry wide. These TAMs ” attempt to set forth standards for determining what costs are includable in eligible basis for purposes of calculating the low-income housing tax credit. They are creating a program-wide disruption in the allocation of credits and the development of affordable housing. In fact, the IRS is applying these new restrictive rules to existing properties under audit, as well as urging state agencies to apply them to properties being proposed for development

While the program has been in existence for fourteen years, the TAMs took aggressive positions contrary to common industry practice that would eliminate from tax credit eligible basis reasonable, legitimate and necessary costs incurred in typical transactions. The economic result of the TAMs would be to reduce the level of equity financing available for each project making a number of affordable housing properties financially infeasible and weaken the economics of those that still pass minimum underwriting requirements. The TAMs also have created uncertainty among investors as to whether the credits for which they have paid will be realized. The TAMs, therefore, threaten to reduce the amount which investors will be willing to pay for each tax credit. This loss of efficiency hurts both low-income tenants and the Federal taxpayer, by further reducing the amount of housing that can be produced from a given amount of tax credits. Finally, the TAMs would impose an indefensible administrative burden upon

owners of affordable housing properties, state agencies and the IRS, itself, in order to prove compliance to auditors.

Under the positions taken by the TAMs, state and local impact fees, which must be paid as a condition of developing a property, would not be includable in eligible basis. These fees, covering a wide range of infrastructure improvements (e.g., sewer lines, schools, roads), are imposed because of the “impact” of construction improvements on the land and would not be incurred if the land remained undeveloped.

Furthermore, under the TAMs, certain landscaping and other land improvements would be includable while other, equally legitimate, costs would be excluded. For example, the developer of a low-income housing tax credit property would have to distinguish between trees and shrubs planted near the building and those on the rest of the property. In addition, to properly determine the developer fees allocable to the land and to the building, the developer would have to keep track of the time he spent with the landscaper outlining and describing the shrubbery near the building compared to shrubbery planted elsewhere on the property.

Rep. Nancy Johnson (R-CT) has agreed to introduce legislation that would allow certain development costs which have been included in tax credit eligible basis as generally accepted industry practice to continue to be includable in basis eligible for the low-income housing tax credit. To accomplish this, the legislation introduces the concept of “development cost basis” and then specifically identifies costs that will qualify. The identified costs include: site preparation costs, state and local “impact” fees, reasonable development fees, professional fees related to basis items, and construction financing costs (but not financing costs to acquire land). Including these development costs in the eligible basis of Low Income Housing Tax Credit affordable housing projects will achieved the objective of providing increased quality affordable housing for each tax credit dollar. NAHB strongly supports this legislation and urges its speedy enactment.